

# EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
HUNTINGTON DIVISION**

**OHIO VALLEY ENVIRONMENTAL  
COALITION, COAL RIVER MOUNTAIN  
WATCH, WEST VIRGINIA HIGHLANDS  
CONSERVANCY, and THE SIERRA CLUB,**

**Plaintiffs,**

**v.**

**Civil Action No. 3:08-0979**

**UNITED STATES ARMY CORPS OF  
ENGINEERS; ROBERT L. VAN ANTWERP,  
Commander in Chief of Engineers, U.S. Army  
Corps of Engineers; DANA R. HURST,  
Colonel, District Engineer, U.S. Army Corps of  
Engineers, Huntington District,**

**Defendants,**

**and**

**FOLA COAL COMPANY, LLC,  
LOADOUT, LLC, and COAL RIVER  
MINING, LLC,**

**Intervenor-Defendants.**

**AFFIDAVIT OF JOHN GORONCY**

STATE OF WEST VIRGINIA,

COUNTY OF Kanawha, to wit:

I, John Goroncy, after being duly sworn, depose and state as follows:

1. I am General Superintendent of Fola Coal Company, LLC ("Fola"), Intervenor-Defendant in the above-titled action. My responsibilities include the day-to-day operations and management of the Fola Surface Mine and Preparation Plants as well as the Powellton<sup>1</sup> and

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<sup>1</sup> Fola Coal Company, LLC d/b/a Powellton Coal Company is the full name of this entity.

Terry Eagle<sup>2</sup> facilities. These responsibilities also include the overall financial responsibilities of the company and planning for the operations.

2. I have personal knowledge of the facts stated herein and, if called as a witness, I can testify confidently thereto.

3. On December 17, 2009, Fola filed a Motion for Relief from this Court's November 24, 2009 Memorandum Opinion and Order remanding Fola's Clean Water Act Section 404 Permit to the United States Army Corps of Engineers for additional public notice and comment (the "Motion") [Docket # 166]. In its Motion, Fola requested a limited stay of the Order as to the six valley fills<sup>3</sup> in which Fola is already working, as authorized by its Permit and pursuant to agreements with Plaintiffs' counsel and prior orders of this Court. The Motion is currently pending before this Court.

4. If the stay requested in Fola's Motion is granted, the ability to continue using the six previously approved fills is anticipated to provide the Ike Fork Surface Mines with an additional 12 months or more of mining activity.

And further this affiant sayeth naught.

  
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JOHN GORONCY

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<sup>2</sup> Terry Eagle Coal Company, L.L.C. is the full name of this entity.

<sup>3</sup> The valley fills at issue are Valley Fills 1, 2 and 3 on the Ike Fork No. 1 permit and Valley Fills 2, 4 and 7 on the Ike Fork No. 2 permit.

STATE OF WEST VIRGINIA,

COUNTY OF Kanawha, TO-WIT:

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of December, 2009.

My Commission Expires: 4 May 6, 2018.

Kimberly S. Williams  
Notary Public

NOTARY SEAL:

